

1-1 By: Seliger S.B. No. 543  
 1-2 (In the Senate - Filed January 19, 2017; February 8, 2017,  
 1-3 read first time and referred to Committee on Higher Education;  
 1-4 March 28, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 7, Nays 0; March 28, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 543 By: Seliger

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to performance-based tuition limitations for certain  
 1-20 public institutions of higher education and a temporary tuition  
 1-21 limitation for those institutions.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subchapter B, Chapter 54, Education Code, is  
 1-24 amended by adding Sections 54.05131 and 54.05132 to read as  
 1-25 follows:

1-26 Sec. 54.05131. PERFORMANCE-BASED DESIGNATED TUITION  
 1-27 LIMITATIONS. (a) In this section:

1-28 (1) "Administrative costs" means the percentage of an  
 1-29 institution's operating budget expended on institutional expenses,  
 1-30 as designated in an institution's annual financial reports in the  
 1-31 subcategories of executive management, fiscal operations, general  
 1-32 administrative and logistical services, administrative computing  
 1-33 support, and public relations/development.

1-34 (2) "Coordinating board" means the Texas Higher  
 1-35 Education Coordinating Board.

1-36 (3) "General academic teaching institution" and  
 1-37 "public state college" have the meanings assigned by Section  
 1-38 61.003.

1-39 (4) "Performance measure" means a performance measure  
 1-40 defined by coordinating board rule under Subsection (b).

1-41 (b) The coordinating board, using the negotiated rulemaking  
 1-42 procedures under Chapter 2008, Government Code, shall define the  
 1-43 following performance measures to be used for purposes of this  
 1-44 section:

1-45 (1) the total number of undergraduate degrees awarded  
 1-46 by the institution;

1-47 (2) the total number of undergraduate degrees awarded  
 1-48 by the institution, adjusted by the institution's six-year  
 1-49 graduation rate under Subdivision (10);

1-50 (3) the total number of undergraduate degrees awarded  
 1-51 by the institution per 100 undergraduate full-time student  
 1-52 equivalents;

1-53 (4) the total number of undergraduate degrees awarded  
 1-54 by the institution to at-risk students;

1-55 (5) the total number of undergraduate students at the  
 1-56 institution having successfully completed at least 25 percent of  
 1-57 the student's degree requirements or having earned at least 30  
 1-58 credit hours toward a 120-credit-hour degree;

1-59 (6) the total number of undergraduate students at the  
 1-60 institution having successfully completed at least 50 percent of

2-1 the student's degree requirements or having earned at least 60  
2-2 credit hours toward a 120-credit-hour degree;  
2-3 (7) the total number of undergraduate students at the  
2-4 institution having successfully completed at least 75 percent of  
2-5 the student's degree requirements or having earned at least 90  
2-6 credit hours toward a 120-credit-hour degree;  
2-7 (8) the average length of a student's enrollment, by  
2-8 number of semesters, for undergraduate degree completion;  
2-9 (9) the four-year graduation rate of first-time,  
2-10 full-time, bachelor's degree-seeking students who enrolled in at  
2-11 least 12 semester credit hours in the student's first fall semester  
2-12 at the institution and who graduated from the institution or from  
2-13 any other institution of higher education or private or independent  
2-14 institution of higher education;  
2-15 (10) the six-year graduation rate of first-time,  
2-16 full-time, bachelor's degree-seeking students who enrolled in at  
2-17 least 12 semester credit hours in the student's first fall semester  
2-18 at the institution and who graduated from the institution or from  
2-19 any other institution of higher education or private or independent  
2-20 institution of higher education; and  
2-21 (11) the institution's administrative costs.  
2-22 (c) This section applies only to a general academic teaching  
2-23 institution other than a public state college.  
2-24 (d) Not later than November 1 of each even-numbered year,  
2-25 the coordinating board shall:  
2-26 (1) in consultation with the president of each  
2-27 institution to which this section applies, establish a target level  
2-28 for each performance measure applicable to the institution for each  
2-29 of the two next academic years to encourage the institution to  
2-30 achieve reasonable incremental progress toward appropriate  
2-31 long-term goals for performance in each performance measure, taking  
2-32 into account the mission, resources, and circumstances of the  
2-33 particular institution; and  
2-34 (2) submit to the standing committee of each house of  
2-35 the legislature with primary jurisdiction over higher education and  
2-36 to each institution to which this section applies a report that  
2-37 includes the target levels established by the coordinating board  
2-38 under Subdivision (1) for each institution.  
2-39 (e) The coordinating board, using the negotiated rulemaking  
2-40 procedures under Chapter 2008, Government Code, by rule shall  
2-41 develop standards to be considered by the coordinating board in  
2-42 establishing an institution's target levels for performance  
2-43 measures under Subsection (d). In developing the standards, the  
2-44 negotiated rulemaking committee established for purposes of this  
2-45 subsection and the coordinating board shall consider institutional  
2-46 improvement on target levels. The coordinating board shall  
2-47 reconvene the negotiated rulemaking committee to assist the  
2-48 coordinating board whenever the coordinating board modifies or  
2-49 updates the standards.  
2-50 (f) In adopting rules under this section, the coordinating  
2-51 board shall prescribe any necessary adjustments or exceptions for  
2-52 institutions that offer only upper-division courses and to which  
2-53 certain performance measures prescribed by Subsection (b) do not  
2-54 apply.  
2-55 (g) As soon as practicable after each academic year, the  
2-56 coordinating board shall determine whether an institution has  
2-57 achieved the applicable target levels for that academic year.  
2-58 Using the negotiated rulemaking procedures under Chapter 2008,  
2-59 Government Code, the coordinating board by rule shall establish the  
2-60 process by which an institution's achievement on a performance  
2-61 measure is submitted to and verified by the coordinating board.  
2-62 (h) After the coordinating board makes a determination for  
2-63 an institution under Subsection (g), the coordinating board shall  
2-64 notify the governing board of the institution that Subsection (i)  
2-65 or (j), as applicable, applies to the tuition charged by the  
2-66 institution for the second academic year following the academic  
2-67 year for which the determination is made and of the limitation  
2-68 prescribed by the applicable subsection on the amount of tuition  
2-69 that may be charged by the institution for that academic year.

3-1           (i) This subsection applies to tuition charged for an  
 3-2 academic year by an institution to which this section applies only  
 3-3 if the institution did not achieve, in the second academic year  
 3-4 preceding that academic year, the target level assigned by the  
 3-5 coordinating board for the administrative costs performance  
 3-6 measure as applicable to the institution for that preceding  
 3-7 academic year and a majority of the target levels assigned to the  
 3-8 remaining performance measures by the coordinating board as  
 3-9 applicable to the institution for that preceding academic year.  
 3-10 For an academic year in which this subsection applies to the tuition  
 3-11 charged by an institution, unless the institution has been granted  
 3-12 an exception under Subsection (m) for that year, the amount of  
 3-13 tuition the governing board of the institution charges under  
 3-14 Section 54.0513 to a student for that academic year may not exceed  
 3-15 the total amount of tuition that the governing board would have  
 3-16 charged under that section to a similarly situated student in the  
 3-17 preceding academic year, as that amount is adjusted for each  
 3-18 academic year for inflation as determined under Subsection (l).  
 3-19 The governing board may not increase the amount of tuition charged  
 3-20 under this subsection to a student more than once in any academic  
 3-21 year.

3-22           (j) This subsection applies to tuition charged for an  
 3-23 academic year by an institution to which this section applies only  
 3-24 if the institution achieved, in the second academic year preceding  
 3-25 that academic year, the target level assigned by the coordinating  
 3-26 board for the administrative costs performance measure as  
 3-27 applicable to the institution for that preceding academic year and  
 3-28 a majority of the target levels assigned to the remaining  
 3-29 performance measures by the coordinating board as applicable to the  
 3-30 institution for that preceding academic year. For an academic year  
 3-31 in which this subsection applies to the tuition charged by an  
 3-32 institution, the amount of tuition the governing board of the  
 3-33 institution charges under Section 54.0513 to a student for that  
 3-34 academic year may not exceed by more than three percent the total  
 3-35 amount of tuition that the governing board would have charged under  
 3-36 that section to a similarly situated student in the preceding  
 3-37 academic year, as that amount is adjusted for each academic year for  
 3-38 inflation as determined under Subsection (l). The governing board  
 3-39 may not increase the amount of tuition charged under this  
 3-40 subsection to a student more than once in any academic year.

3-41           (k) For purposes of this section:

3-42           (1) an institution is considered to have achieved a  
 3-43 target level assigned to a performance measure if the institution  
 3-44 has achieved at least 98 percent of the target level; and

3-45           (2) students are similarly situated if they share the  
 3-46 same residency status, degree program, course load, course level,  
 3-47 tuition exemption status, and other circumstances affecting the  
 3-48 tuition charged to the student.

3-49           (l) Not later than August 31 of each year, or as soon  
 3-50 thereafter as practicable, the Legislative Budget Board shall  
 3-51 publish and certify to the governing board of each institution to  
 3-52 which this section applies the inflation rate to be used for  
 3-53 purposes of this section for the next academic year. The inflation  
 3-54 rate is the percentage increase, if any, as expressed in decimal  
 3-55 form rounded to the nearest thousandth of one percent, in the  
 3-56 consumer price index, as defined by Section 341.201, Finance Code,  
 3-57 for the preceding 12-month period as compared to the consumer price  
 3-58 index for the 12-month period preceding that period.

3-59           (m) The coordinating board, using the negotiated rulemaking  
 3-60 procedures under Chapter 2008, Government Code, by rule shall  
 3-61 establish an exception to the application of Subsection (i) for an  
 3-62 institution to which that subsection would otherwise apply for an  
 3-63 academic year in the event of a natural disaster or other  
 3-64 extraordinary circumstance affecting the institution's achievement  
 3-65 on performance measures. In an academic year for which an  
 3-66 institution is granted an exception under this subsection,  
 3-67 Subsection (j) applies to the institution.

3-68           Sec. 54.05132. TEMPORARY LIMITATION ON TOTAL AMOUNT OF  
 3-69 TUITION. (a) In this section:

4-1 (1) "General academic teaching institution" and  
4-2 "public state college" have the meanings assigned by Section  
4-3 61.003.

4-4 (2) "Tuition" includes:

4-5 (A) tuition for which the rates are prescribed by  
4-6 this chapter; and

4-7 (B) tuition charged by an institution of higher  
4-8 education under Section 54.0513 or another law authorizing an  
4-9 institution to establish tuition rates.

4-10 (b) Notwithstanding Section 54.0513, the total amount of  
4-11 tuition charged by a general academic teaching institution other  
4-12 than a public state college to a student for the 2018-2019 or  
4-13 2019-2020 academic year may not exceed by more than one percent the  
4-14 total amount of tuition that the institution would have charged  
4-15 under this chapter to a similarly situated student for the  
4-16 preceding academic year, as that amount is adjusted for each  
4-17 academic year for inflation as determined under Subsection (c).  
4-18 For purposes of this subsection, students are similarly situated if  
4-19 they share the same residency status, degree program, course load,  
4-20 course level, tuition exemption status, and other circumstances  
4-21 affecting the tuition charged to the student. This subsection does  
4-22 not ensure that the total amount of tuition charged to an individual  
4-23 student does not increase based on a change in the student's  
4-24 residency status, degree program, course load, course level,  
4-25 tuition exemption status, or other circumstance affecting the  
4-26 tuition charged to the student.

4-27 (c) Not later than August 31 of each year, or as soon  
4-28 thereafter as practicable, the Legislative Budget Board shall  
4-29 publish and certify to the governing board of each institution to  
4-30 which this section applies the inflation rate to be used for  
4-31 purposes of this section for the next academic year. The inflation  
4-32 rate is the percentage increase, if any, as expressed in decimal  
4-33 form rounded to the nearest thousandth of one percent, in the  
4-34 consumer price index, as defined by Section 341.201, Finance Code,  
4-35 for the preceding 12-month period as compared to the consumer price  
4-36 index for the 12-month period preceding that period.

4-37 (d) This section expires September 1, 2020.

4-38 SECTION 2. Section 54.05131, Education Code, as added by  
4-39 this Act, applies beginning with tuition charged by a general  
4-40 academic teaching institution to which that section applies for the  
4-41 2020-2021 academic year.

4-42 SECTION 3. This Act takes effect September 1, 2017.

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